

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

KEVIN L. HENDRICKSON

Petitioner,

v.

DOUG WADDINGTON,

Respondent.

Case No. C06-5571FDB

ORDER ADOPTING REPORT AND  
RECOMMENDATION  
DISMISSING PETITION FOR  
HABEAS CORPUS WITHOUT  
PREJUDICE

The Magistrate Judge recommends this habeas corpus petition be dismissed without prejudice. As noted by the Magistrate Judge, the Petitioner's personal restraint petition and direct appeal are pending in the state court. Thus, Petitioner's request for habeas corpus relief be denied as premature. See, 28 U.S.C. § 2254(b). Petitioner objects, asserting that the state court lacks jurisdiction, or in the alternative that this Court should delay consideration of the petition pending the state court determination. Petitioner's arguments are unpersuasive.

The Court, having reviewed the Petition for writ of habeas corpus, Respondent's answer, the Report and Report and Recommendation of Magistrate Judge J. Kelly Arnold, Petitioner's additional authorities and objections, and the remaining record, does hereby find and ORDER;


(1) The Court adopts the Report and Recommendation;

- 1 (2) The petition is **DISMISSED WITHOUT PREJUDICE**. The issues presented are  
2 currently in state court and are therefore unexhausted.
- 3 (3) The Clerk is directed to send copies of this Order to Petitioner, and to the Hon. J.  
4 Kelley Arnold.

5 DATED this 9<sup>th</sup> day of March, 2007.

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10 FRANKLIN D. BURGESS  
11 UNITED STATES DISTRICT JUDGE

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